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number involving gender, age, and sexual orientation. Case examples given included: denial of access to use bathroom facility at gas station based on race or color; denial of access to a hotel facility based on race or color; denial of membership in a health club based on mental disability; denial of the use of a service animal at a clothing store by a disabled individual; racial and ethnic profiling in stores; denial of service at a grocery store based on race; and ethnic slurs made at a banking institution. He further explained that DFEH is involved in the early stage of conducting outreach to hotel, motel, and bed and breakfast industry members who may not realize that advertising or policies that preclude children violate the FEHA.

III. Testimony:

A. Michael Harris

Michael Harris gave an overview of the Lawyers' Committee's efforts to educate the public as to the nature of retail discrimination and, when appropriate, to advocates on behalf of victims of discrimination. Through meetings, which included a public education forum in January 2002, many incidents and violations were uncovered which led to two lawsuits being filed by his organization. Harris stated that outreach attempts to the business community were not as successful as expected. Harris also shared information concerning an alleged incident that occurred at a U-Haul rental facility in Concord. Policemen reportedly held a couple with two young children at bay with weapons drawn when they attempted to get a rental refund. The Concord U-Haul facility manager had been verbally abusive and threatening when the couple arrived in person for the refund, per his telephone instructions, after they returned the truck at an Oakland facility. The manager then reported the couple as attempting to rob his facility, while neglecting to mention the children. After the trauma of being held at gunpoint for over half an hour, the police realized what was happening and assisted the couple in obtaining their refund.

B. Jot Condie

Jot Condie explained that the California Restaurant Association is a nonprofit trade association representing roughly 18,000 of the 72,000 restaurant locations in California. He offered statistics stating that in the retail industry, restaurants rank second in minority ownership. Two-thirds of restaurant managers are women, 15% are Latino, and 12% are African-American. He added that the Americans with Disability Act (ADA) is bootstrapped to the Unruh Act and that he had heard anecdotally that 25% of San Diego restaurants have ADA violations. The Unruh Act and the ADA are of concern to the industry so the Association is always looking for ways to reach members and the restaurant community in general. He reported that his association engaged the disabled community on a bill, AB 1040, last year and federal level attempts to create a 90-day "cure" system allowing time to correct ADA violations. Condie affirmed that his association is dedicated to reducing public complaints by informing and educating members of their legal obligations. This is done through legislative endeavors, membership newsletters and magazines. He said they are always open to all suggestions and assistance, including outreach, to help the restaurant community with compliance issues.

C. William Hastie

William Hastie discussed a case against a major international retailer that he represented before the Commission between 1988 and 1990. The Chinese for Affirmative Action, the National Association for the Advancement of Colored People (NAACP), and the Lawyers'

Committee for Civil Rights Under Law filed the Unruh action alleging discrimination in public accommodations. The facts of the case also resulted in lawsuits and actions by federal and state courts, the California Attorney General, the San Francisco District Attorney, the San Francisco Human Rights Commission, and the Better Business Bureau of San Francisco.

The claims alleged that the store discouraged entry to all persons who were not Japanese nationals and tourists, and dozens of incidents were cited: African-Americans entering the store were followed and treated as potential thieves; Latinos, other minorities and school children were escorted out or denied admission; a loudspeaker announcement in a non-English language alerted certain individuals of a suspect customer when certain customers entered the store; and that people from a suspect category were told the store had a specialized license and that only certain people could shop there. Hastie's case was resolved without going to final adjudication and resulted in a number of changes in the retailer's practices.

D. Theresa Demchak

Theresa Demchak then reported on the public accommodations class action case, which was handled by her law firm. After a year-long investigation with a database of nearly 2500 names, an action was brought against Denny's. Almost every African-American interviewed had experienced a discriminatory practice at one of the restaurants. Examples provided included: a San Francisco police officer denied access to a Denny's after a football game in San Diego; a Federal judge from Houston, Texas, subjected to racial taunts at a Denny's in Eureka by customers at the next table, while the staff did nothing; making African-Americans prepay meals; rushing seating; long waits for service; and refusal to honor promotions (like the two-for-one sandwich coupon). Demchak explained that, "there were no smoking guns, just inaction by Denny's corporate leadership. Denny's had suffered severe cash flow so it cut regional management which left no complaint mechanism to customers." In resolution, Denny's agreed to voluntary certification of the class and settled the case because of the publicity and new enlightened management who saw the problem. Denny's paid \$54 million in damages to the classes of African-American customers throughout the country." Demchak spoke about the success story that became of this litigation. Denny's management was entirely cooperative in implementing the changes and, from Demchak's perspective, these efforts changed the culture of the workplace.

IV. Closing Remarks

In closing, Dennis Hayashi joined Commissioner Woolverton in thanking speakers and participants, and offering an invitation to work together on an initiative aimed at informing providers about their responsibilities under Unruh while educating the public. The open session recessed at 11:45 a.m.

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